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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,400	01/15/2004	David E. Chen	065389-9003-00	6083

23409 7590 08/09/2005

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

EXAMINER

PICKARD, ALISON K

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,400

Applicant(s)

CHEN ET AL.

Examiner

Alison K. Pickard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-34 is/are allowed.
- 6) ☒ Claim(s) 1-20 and 35-45 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 1-9 and 19 are objected to because of the following informalities: Claim 1, line 10, "the aperture" lacks antecedent basis. Claim 19 does not appear to be further limiting since claim 10 already recites the rings as integral. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 7-14, 17-20, 35-39, and 42-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Stoll (5,190,078).

Stoll discloses a sealing device comprising a body 4 having a center, inner axially extending surface (near 13) and outer axially extending surface (near 11). Any of seals 6 can comprise the first and second rings that project radially from the outer surface. Any of seals 5 can comprise the third and fourth rings that project radially from the inner surface. Thus, depending on which is selected, the seals/rings can be axially offset with respect to one another such that the first and second are spaced an axial distance greater or smaller than that between the third and fourth rings/seals. The device also comprises a vent 18 that would be between the first and second and the third and fourth regardless of which were selected. The seals/rings are considered to be integral with the body in that they are connected/form a single unit.

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4. Claims 1, 3-11, 13-20, 35, 36, and 38-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillips (2,754,136).

Phillips discloses a sealing device comprising a body having a center, inner axially extending surface, and outer axially extending surface 20. First and second seals/rings 18 project from the outer surface in a radial direction. Third and fourth seals/rings 14 project radially from the inner surface. The axial distance between where the first and second seals project from the outer surface is greater than the distance between the third and fourth seals. A vent 16 extends through the body and is between the first and second and third and fourth seals. The seals/rings are integral with the body and are made of an elastomer/soft polymer.

Allowable Subject Matter

5. Claims 21-34 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: the prior art taken as a whole does not show nor suggest the combination of limitations required by the claims. Stoll, Meyer, and Phillips show examples of the sealing device required by the claims. Bair '384 and Summers '431 show examples of surgical cutting devices. Summers, for example, has two chambers 51, 37, a vent (near 25), a passage and a shaft 62 (see Fig. 2). Bair also shows some similar structure (Fig. 7). However, neither discloses the tool structure exactly as claimed and both lack the seal as claimed. And, there does not appear to be any motivation absent Applicant's own disclosure to modify the tools with the seals (i.e. Stoll or Phillips) as required by the claims.


Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 571-272-7062. The examiner can normally be reached on M-F (10-7:30), with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alison K. Pickard
Primary Examiner
Art Unit 3673

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